

Amounts paid to an exempt religious organization by 'sponsors,' who are solicited by individual members of a work-study program that includes attendance at the organization's theological college, to pay the approximate cost of the individual's tuition, room, and board at the college are not deductible under section 170 of the Code.

ISSUE

Is a charitable contribution deduction under section 170 of the Internal Revenue Code of 1954 allowable for amounts paid to X, an organization exempt from federal income tax under section 501(c)(3) and described in section 170(c)(2), that are solicited by members of XC, a work-study program conducted under the auspices of X, under the circumstances described below?

FACTS

X is a religious organization that engages in Bible research and propagates knowledge of the Bible. XC, an affiliate of X, was developed as one means of accomplishing this purpose. XC members are individuals specially selected by X to receive a four year program of religious leadership training, two years of which are provided at X's theological college. Upon completion of the training, the XC member receives a certificate that evidences completion of the program, but does not qualify the member for employment with X, or in any particular field of endeavor. Most XC graduates return to or enter fields of employment that are unrelated to X. Many graduates conduct household fellowship groups sponsored by X in their communities. They are not compensated for their services, but they may be reimbursed for their expenses.

During the first and third year of the four year program, XC members remain in their full time jobs not connected with X, but participate in activities directed by XC. In their second and fourth years of training, XC members are in residence on X's college campus and are instructed by the college faculty in general education courses (relating to subjects such as management, motivation techniques, nutrition, grooming, etiquette, etc.), and in religious education courses (such as Bible history, principles of religious leadership, etc.).

X expects to be paid \$4,000 for each of the two years a member is in residence at X's college. This sum is ordinarily provided by the member's 'sponsor.' In many cases the sponsor is the member's parent. Where parents are unable to pay, the member is expected to solicit the sponsorship of other persons. These sponsors pledge their contributions by means of a commitment form showing the amount of the commitment, the timing of payments to be made, the name of the sponsor, and the name of the XC member who solicited the payment. The commitment form states that the

payments made by a sponsor are nonrefundable and their use is solely at the discretion of the Board of Trustees. The sponsor is provided special envelopes for use in making the payments. These envelopes are preaddressed to X for the attention of XC and contain a space labeled 'student name.' A note accompanying the envelopes directs that all checks should be made payable to X because XC is not a separate entity.

The amount of \$4,000 approximates the annual cost of providing tuition, room, board, study materials, and activities to each XC member in residence at X's college campus, and is the same amount paid by tuition-paying students of X college for tuition, room, and board.

LAW AND ANALYSIS

Section 170(a) of the Code provides, subject to certain limitations, for the allowance of a deduction for charitable contributions or gifts to or for the use of organizations described in section 170(c), payment of which is made during the taxable year.

A contribution or gift, for purposes of section 170 of the Code, is a voluntary transfer of money or property made by the transferor without receipt or expectation of commensurate benefits or privileges. See H.R. Rep. No 1337, 83d Cong., 2d Sess. A44 (1954); S. Rep. No. 1622, 83d Cong., 2d Sess. 196 (1954).

If contributions to a fund are earmarked by the donor for a particular individual, they are treated as being gifts to the designated individual and are not deductible as charitable contributions. However, a deduction is allowable where it is established that a gift is intended by the donor for the use of the organization and not as a gift to an individual. Rev. Rul. 62-113, 1962-2 C.B. 10. An example of a contribution that is not deductible because it is earmarked is found in *Tripp v. Commissioner*, 337 F.2d 432 (7th Cir. 1964).

Rev. Rul. 68-484, 1968-2 C.B. 105, states that for purposes of determining that a contribution is made to or for the use of an organization described in section 170 of the Code rather than to a particular individual who ultimately benefits from the contribution, the organization must have full control of the use of the donated funds; and the contributor's intent in making the payment must have been to benefit the charitable organization itself and not the individual recipient.

The \$4,000 of contributions solicited by XC members for each year of on-campus training is earmarked by the donor for a particular individual (the XC member) by showing the name of the XC member who solicited the payment on the commitment form and by showing the 'student name' on the envelopes used for making the payments. These facts evidence the contributor's intent to benefit the individual recipient (the XC member) rather than the

charitable organization (X). Moreover, the per-year cost of goods and services (room, board, books, classes, etc.) consumed by an XC member during an on-campus training year approximates \$4,000, the amount that the XC member is expected to solicit for such year; so that the only control X has of the use of the donated funds is comparable to the control any school has over tuition payments it receives.

HOLDING

A charitable contribution deduction under section 170 of the Code is not allowable for amounts paid to X that are solicited by members of XC for each year of their on-campus training.